

MONTANA LEGISLATIVE HISTORY

Chapter 433 1997

Bill H _____ S _____ Original bill & history ☒ C

H. Committee on Corrections-Select

S. Committee on Judiciary

Hearing Date(s) 3-5 _____ C

Hearing Date(s) 2-7 _____ C

3-8 _____ C

_____ C

_____ C

_____ C

_____ C

_____ C

Date Out 3-8 _____ C

Date Out 2-7

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Conference Committee

met 4/2

no written minutes; references
to recorded minutes;
exhibits included

Report 4/7

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

3/03 MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
DIED IN COMMITTEE

SB 256 INTRODUCED BY HARGROVE *LC1029 DRAFTER: LANE*
CREATE THE OFFENSE OF ASSAULT ON A PEACE OFFICER OR JUDICIAL
OFFICER

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO JUDICIARY		
2/07	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED		
2/11	2ND READING PASSED	50	0
2/12	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/13	REFERRED TO CORRECTIONS SELECT COMMITTEE		
3/05	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/12	2ND READING CONCURRED	78	21
3/13	3RD READING CONCURRED	79	21
	RETURNED TO SENATE WITH AMENDMENTS		
3/17	2ND READING AMENDMENTS NOT CONCURRED	49	0
3/19	CONFERENCE COMMITTEE APPOINTED		
4/02	HEARING		
4/08	CONFERENCE COMMITTEE REPORT NO. 1		
4/09	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
4/10	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
	HOUSE		
3/24	CONFERENCE COMMITTEE APPOINTED		
4/08	CONFERENCE COMMITTEE REPORT NO. 1		
4/16	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	97	3
4/16	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	86	14
4/24	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 433		
	EFFECTIVE DATE: 04/29/97		

SB 257 INTRODUCED BY DEPRATU, ET AL. *LC1130 DRAFTER: ERICKSON*
REVISE THE DISPOSITION OF GASOLINE TAXES AND FEDERAL HIGHWAY
FUNDS

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/31	FISCAL NOTE REQUESTED		
2/06	FISCAL NOTE RECEIVED		
2/08	FISCAL NOTE PRINTED		
2/11	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	47	0
2/19	3RD READING PASSED	50	0

SENATE JUDICIARY

Page 10

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ----- DATE READ

SB0232	1/27	2/04	PASS AS AMENDED	VOTE: 10-0	2-7	2/08		
SB0247	MESAROS, KEN	1/29	2/04	ABSOLUTE LIABILITY OFFENSE OF DAMAGING & DESTROYING PROPERTY DURING REC USE	TABLED ON 02/06	VOTE:		
SB0250	CRIPPEN, BRUCE	1/30	2/10	CREATE FAMILY LAW APPEALS COURT	TABLED ON 02/12	VOTE:10-0		
SB0255	EMERSON, C. A.	1/30	2/12	INSPECTOR GENERAL TO INVESTIGATE CIVIL RIGHTS VIOLATIONS	TABLED ON 02/17	VOTE:9-1		
SB0256	HARGROVE, DON	1/31	2/07	CREATE OFFENSE OF ASSAULT UPON PEACE OFFICER OR JUDICIAL OFFICER	DO PASS	VOTE: 10-0	2-7	2/08
SB0263	BISHOP, AL	2/03	2/14	GENERALLY REVISE ESTATE, TRUST, AND FIDUCIARY LAWS	DO PASS	VOTE:10-0	2-14	2/14
SB0266	DEVLIN, GERRY	2/03	2/11	ESTABLISH SUBROGATION RIGHTS IN MOTOR VEHICLE LIABILITY POLICIES	PASS AS AMENDED	VOTE:	2-18	2/18
SB0277	BARTLETT, SUE	2/04	2/07	REVISE DISTRICT COURT SMALL CLAIMS PROCEDURE	DO PASS	VOTE: 10-0	2-7	2/08
SB0278	ECK, DOROTHY	2/04	2/10	PROHIBIT MINORS IN GAMBLING AREA	PASS AS AMENDED	VOTE: 7-3	2-13	2/14
SB0279	CRIPPEN, BRUCE	2/04	2/06	REVISE CONDITIONS FOR TERMINATION OF RENTAL AGREEMENT IN MOBILE HOME PARK	PASS AS AMENDED	VOTE:10-0	2-12	2/14
SB0283	BURNETT, JIM	2/05	2/10	CHILD ABUSE/NEGLECT PROC. REQUIRE PARENT INPUT BEFORE TIA ISSUED	PASS AS AMENDED	VOTE:8-2	2-12	2/14
SB0286	CRIPPEN, BRUCE	2/05		INCLUDE EXTERIOR ACCESS FOR PERSON WITH DISABILITY IN BUILDING CODE		VOTE:	BUSINESS & LABOR	
	ECK, DOROTHY			CRIMINAL SURCHARGE TO FUND VICTIM/WITNESS ASSISTANCE PROGRAMS				

Senate BILL NO. 256

INTRODUCED BY

Hargrove

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; PROVIDING PENALTIES FOR ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; REMOVING ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER FROM THE OFFENSE OF FELONY ASSAULT; AMENDING SECTION 45-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Assault on peace officer or judicial officer. (1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes:

(a) bodily injury to a peace officer or judicial officer;

(b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of a weapon;

(c) bodily injury to a peace officer or judicial officer with a weapon; or

(d) serious bodily injury to a peace officer or judicial officer.

(2) (a) A person convicted of assault on a peace officer or judicial officer under subsection (1)(a), (1)(b), or (1)(c) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 40 years, or both.

(3) As used in this section, the following definitions apply:

(a) "Judicial officer" has the meaning provided in 1-1-202 and includes the workers' compensation judge, water court judges, and judges pro tempore.

(b) "Peace officer" has the meaning provided in 45-2-101 and includes a person, sworn or unsworn, who is responsible for the care or custody of a prisoner.

(4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not

1 included as offenses of assault on a peace officer or judicial officer.

2
3 **Section 2.** Section 45-5-202, MCA, is amended to read:

4 **"45-5-202. (Temporary) Aggravated assault -- felony assault.** (1) A person commits the offense
5 of aggravated assault if ~~he~~ the person purposely or knowingly causes serious bodily injury to another.

6 (2) A person commits the offense of felony assault if ~~he~~ the person purposely or knowingly causes:

7 (a) bodily injury to another with a weapon; or

8 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

9 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
10 ~~prisoner.~~

11 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
12 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
13 in 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison for a term not
14 to exceed 10 years or be fined not more than \$50,000, or both.

15 **45-5-202. (Effective July 1, 1997) Aggravated assault -- felony assault.** (1) A person commits the
16 offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another.

17 (2) A person commits the offense of felony assault if the person purposely or knowingly causes:

18 (a) bodily injury to another with a weapon; or

19 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

20 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
21 ~~prisoner.~~

22 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
23 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
24 in 46-18-219 and 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison
25 for a term not to exceed 10 years or be fined not more than \$50,000, or both."

26
27 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
28 integral part of Title 45, chapter 5, part 2, and the provisions of Title 45, chapter 5, part 2, apply to
29 [section 1].

NEW SECTION. Section 4. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

-END-

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on February 7, 1997, at 9:00 a.m., in Room 104, of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 256, posted February 4
SB 277, posted February 4
Executive Action: SB 277, SB 256, SB 232, HB 122

HEARING ON SB 256

Sponsor: DON HARGROVE, SD 16, Bozeman

Proponents: John Conner, Department of Justice and Gallatin
County Attorney Marty Lambert
Mike Batista, Department of Justice
Pat Chenovik, Administrator, Montana Supreme Court
Bill Sleeyter, Bozeman, Montana Peace Officers
Association

Opponents: None

Opening Statement by Sponsor: DON HARGROVE, SD 16, Bozeman, provided the Committee with an amendment, and said the bill creates felony assault (EXHIBIT #1).

Proponents' Testimony: John Conner, Department of Justice and Gallatin County Attorney Marty Lambert. The bill addresses 45-5-201 and -2-2, MCA, and is drafted as it is because it allows prosecution of offenders who take action against law enforcement of the Judiciary to not be prosecuted against a lesser offense. The essence is to implement the existing intent of the Legislature and add judicial officers as well as law enforcement officials.

Mike Batista, Department of Justice, stated his support of the bill.

Pat Chenovik, Administrator, Montana Supreme Court. I know of a judge who carried a weapon to court and wore a bullet-proof vest, and I know of threats to city judges.

Bill Sleeyter, Bozeman, Montana Peace Officers Association. I have been assaulted in a variety of ways. I believe judges and law enforcement have the right to be protected. County attorneys will be key decision-makers in this. I urge you to support this bill as it is of great benefit to law enforcement officers.

Opponents Testimony: None

Questions From Committee Members and Responses: SENATOR STEVE DOHERTY. We passed a very similar bill in a prior session which was killed in the House, but the House passed a bill dealing with assault on referees.

VICE CHAIRMAN LORENTS GROSFIELD. Are you concerned that a jury might decide on a lesser offense now? John Conner. There are court decisions which have run afoul of the name of the offense, but the jury is not supposed to be told. So some jurisdictions dropped the term "felony" from the definition of the offense in giving the jury instructions. There are different instructions for fines with misdemeanor offense, than for felony offense.

VICE CHAIRMAN GROSFIELD. We had a situation of assault last session on a legislator by a lobbyist. John Conner. It was not our intent to exclude a class of people, for example, the Legislature. There is still a misdemeanor assault charge available. A felony assault charge is not mandatory.

SENATOR REINY JABS. Why was the language pertaining to bodily injury stricken? John Conner. If the bill passes, we would need to take out the offense under existing law which includes detention officers, so this would clean up the statute.

{Tape: 1; Side: A; Approx. Time Count: #17.7; Comments: 9:29 a.m..}

SENATOR RIC HOLDEN. I am critical of passing more and more laws, and the criminalizing of people in Montana. What is the compelling argument for this legislation? **John Conner.** If the officer is badly beaten up, they have felt in the past that it is part of the process. The prior statute relates only to verbal threats, and has had very limited use in terms of prosecution. In every case the individual involved had a history of violence. A conviction of this would provide the officer with information ahead of time when they are called to a scene of violence.

SENATOR WALTER MCNUTT. Is the Jordan situation driving this thinking? **John Conner.** No.

SENATOR SHARON ESTRADA. Do the majority of officers have hassles in making arrests? **Sheriff Sleyter.** Ninety-two percent of persons arrested for assault in 1996 were under the influence of drugs or alcohol.

SENATOR ESTRADA. If they're drunk, would they be considered to be knowingly committing assault? **Sheriff Sleyter.** If they can walk and talk, I believe they know. We've never let this be an excuse in Montana. A lesser conviction is a slap in the face to these law enforcement officers.

CHAIRMAN CRIPPEN. I asked **SENATOR HARGROVE** to include judicial officers. Judge Pedro Hernandez in Billings was assaulted and the Courts ended up doing nothing.

SENATOR ESTRADA. What if they hit someone and then find out the person they hit is a judge? **CHAIRMAN CRIPPEN.** That would probably be covered under another statute. For example, the case in Hamilton/Darby on which the woman judge testified last session.

{Tape: 1; Side: A; Approx. Time Count: #34.9; Comments: 9:47 a.m..}

SENATOR HOLDEN. Section 45-5-202, MCA, doesn't specify "people" but says "a person". Why don't we extend this to insurance adjusters, bill collectors, and the citizens of Montana? **John Conner.** This is just a policy matter, as these officers are subject more to harm. We ask that those upholding the law be protected by the law.

CHAIRMAN CRIPPEN. Do the other statutes cover this? **John Conner.** It depends upon the severity. We could charge 201 or 202 (misdemeanor or aggravated assault).

CHAIRMAN CRIPPEN. The amendment would include juvenile probation officers. There is a trend in society to look at law enforcement more as adversarial than with respect. They're unique because of

their jobs, and so we need to provide specific legislation to deal with such assaulters. This bill would give more latitude to prosecutors.

Closing by Sponsor: SENATOR DON HARGROVE. The Montana Sheriffs and Peace Officers and I don't object to the amendments to include juvenile probation officers. I just don't want to weaken the bill's chances of getting through the House. I am eager to accept this legislation. I'm making reference to the police car being hit with bullets a few nights ago. I would like to see higher penalties. During my five years in drug enforcement, 2000 police officers and 400 judges were killed in Columbia relating to narcotics prosecutions.

HEARING ON SB 277

Sponsor: SENATOR SUE BARTLETT, SD 27, Helena

Proponents: Mike Murray, Lewis and Clark County Commissioner
Stephen McCue, Lewis and Clark County Small Claims Court
Mike McGrath, Lewis and Clark County Attorney

Opponents: None

Opening Statement by Sponsor: SENATOR SUE BARTLETT, SD 27, Helena. This legislation deals with the small claims function of the Justice Courts and District Courts, established in Lewis and Clark County, and makes a necessary adjustment to statute. It repeals the chapter describing procedure for small claims courts of the District Court and uses the procedure for Justice of the Peace Court instead.

Proponents' Testimony: Mike Murray, Lewis and Clark County Commissioner. The Lewis and Clark County Commissioners are probably the only county to use this court provision, and they do so for financial reasons. By contracting with the Master Judge, they save about \$85,000 of \$100,000 they would have to otherwise spend.

{Tape: 1; Side: B; Approx. Time Count: #8.0; Comments: 10:00 a.m..}

Stephen McCue, Lewis and Clark County Small Claims Court. I am the Helena attorney acting as the Small Claims District Court Judge, under the contract mentioned by Mike Murray. There is a \$3,000 jurisdictional limit. In the past, jurisdiction was limited to only contract cases. Right now, we can't hear fender-bender cases, but can hear tort cases. Also, only the defendant can demand a trial by jury, and this would be very expensive in my court. There can be a trial de novo. Then, we've had difficulty with removing a case. If only one party has an attorney I must dismiss, and the plaintiff file all over again in the District Court. If this filing is not accepted there, it can

measure. I suspect we may see other counties using this as well. I urge your favorable consideration.

EXECUTIVE ACTION ON SB 277

Amendments: sb027701.avl - EXHIBIT 3

Valencia Lane. The proposed amendments (sb027701.avl) are going into Chapter 34, MCA, and repeal most of those sections because they like the Justice of the Peace Court law in Chapter 35. No language is being changed anywhere. I believe the amendment is a good idea. The Code Commissioner would probably include an amendment similar to this, if it were not put in by the Committee now.

Motion: SENATOR MCNUTT MOVED SB 277 DO PASS.

Discussion: SENATOR BARTLETT. We will deal with the amendment in the House.

Vote: SENATOR MCNUTT'S MOTION THAT SB 277 DO PASS CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 256

Amendments: CHAIRMAN CRIPPEN. I have no problem with adding the amendments.

Discussion: SENATOR BARTLETT. A peace officer is any person empowered by virtue of public office to make arrests, while acting within the capacity of that authority (45-2-101, MCA). It can be a person sworn or unsworn for the care of a juvenile.

CHAIRMAN CRIPPEN. The Probation Officers did not come to testify on this. VICE CHAIRMAN GROSFIELD. The language on line 29 seems to already apply to probation officers.

Motion/Vote: VICE CHAIRMAN GROSFIELD MOVED SB 256 DO PASS. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 232

Amendments: sb023201.avl - EXHIBIT 4

Motion: VICE CHAIRMAN LORENTS GROSFIELD MOVED THE AMENDMENTS sb23201.avl BE ADOPTED.

Discussion: Valencia Lane. The change is from one to a three year statute of limitation, and addresses ten years from the date of the act, omission, or negligence.

Vote: VICE CHAIRMAN GROSFIELD'S MOTION THAT THE AMENDMENTS BE ADOPTED CARRIED UNANIMOUSLY.

**MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE**

ROLL CALL

DATE _____

2-7-97

[illegible]

SEN:1995
wp.rollcall.man
CS-09

Amendments to Senate Bill No. 256
First Reading Copy

Requested by Senator Hargrove
For the Committee on Judiciary

Prepared by Greg Petesch
February 7, 1997

1. Title, line 4.
Following: "OFFICER"
Insert: ", "
Strike: "OR"
2. Title, line 5.
Following: "line 4"
Strike: "OR"
Following: "JUDICIAL OFFICER"
Insert: ", OR JUVENILE PROBATION OFFICER"
Following: "PEACE OFFICER"
Insert: ", "
Strike: "OR"
3. Title, line 6.
Following: the first "OFFICER"
Insert: ", OR JUVENILE PROBATION OFFICER"
4. Page 1, line 12.
Following: "peace officer"
Insert: ", "
Strike: "or"
Following: "judicial officer"
Insert: ", or juvenile probation officer"
5. Page 1, line 13.
Following: "peace officer"
Insert: ", "
Strike: "or"
Following: "judicial officer"
Insert: ", or juvenile probation officer"
6. Page 1, line 14.
Following: "peace officer"
Insert: ", "
Strike: "or"
Following: "judicial officer"
Insert: ", or juvenile probation officer"
7. Page 1, line 15.
Following: "peace officer"
Insert: ", "
Strike: "or"
Following: "judicial officer"
Insert: ", or juvenile probation officer"
8. Page 1, line 17.

Following: "peace officer"

Insert: ", "

Strike: "or"

Following: "judicial officer"

Insert: ", or juvenile probation officer"

9. Page 1, line 18.

Following: "peace officer"

Insert: ", "

Strike: "or"

Following: "judicial officer"

Insert: ", or juvenile probation officer"

10. Page 1, line 19.

Following: "peace officer"

Insert: ", "

Strike: "or"

Following: "judicial officer"

Insert: ", or juvenile probation officer"

11. Page 1, line 22.

Following: "peace officer"

Insert: ", "

Strike: "or"

12. Page 1, line 23.

Following: "officer"

Insert: ", or juvenile probation officer"

13. Page 1, line 28.

Following: line 27

Insert: "(b) "Juvenile probation officer" means an individual providing probation services pursuant to Title 41, chapter 5, part 7."

Renumber: subsequent subsection

14. Page 2, line 1.

Following: "peace officer"

Insert: ", "

Strike: "or"

Following: "judicial officer"

Insert: ", or juvenile probation officer"

DATE 2-7-97

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 256, 277

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
PATRICK A. GHENOVICK	MT SUPREME CT	SB256	X	
Mike Pata	DOJ	"	X	
John Connor	DoJ - Gallatin Cty. Atty	SB256	X	
Bill Sleazy	Mont Sheriff & Deacon Off	SB256	X	
MIKE MURPHY	LCC CNTY ATTY	SB277	X	
Stephen R. McIn	LCC County	SB277	X	
Mike Murray	" " BOCC	SB277	X	
Bob Gilbert	mt. Magistrates Assoc.	SB256	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



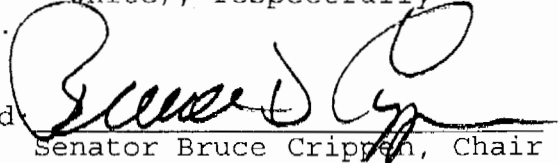
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 7, 1997

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill 256 (first reading copy -- white), respectfully report that Senate Bill 256 do pass.

Signed


Senator Bruce Crippen, Chair

TS
Amd. Coord.

SP Sec. of Senate

291202SC.STS

HOUSE CORRECTIONS, SEL COM

Page 3

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0006	CHRISTIAENS, CHRIS	CRIMINALIZE POSSESSION OF WEAPON BY PERSON IN YOUTH DETENTION FACILITY	1/23	1/31	CONCUR	3/08	VOTE: 9-1	3/11
SB0015	HALLIGAN, MIKE	MANDATE LOCAL SCHOOL DISTRICT ADOPTION OF POLICY FOR SCHOOL RECORDS TRANSFER	1/23	1/31	CONCUR	3/06	VOTE: 10-1	3/07
SB0037	LYNCH, J. D.	COUNTY VOTE REQUIRED TO HOUSE SEX OFFENDERS IN THE COUNTY	2/07	3/05	TABLED ON	03/08	VOTE: 10-0	
SB0048	SPRAGUE, MIKE	GENERALLY REVISE YOUTH COURT ACT; YOUTH IN NEED OF INTERVENTION; ASSESSMENTS Subcommittee: 2/21 through 3/09	2/10	2/18	CONCUR AS AMENDED	3/10	VOTE: 12-0	3/11
SB0099	THOMAS, FRED	REVISE EXTENDED JURISDICTION JUVENILE PROSECUTION/TRANSFER AFTER PROSECUTION Motion to table carried 10-1 on 3/06	2/15	2/20	CONCUR AS AMENDED	3/08	VOTE: 9-1	3/11
SB0106	VAN VALKENBURG, FRED	GENERALLY REVISE DUI ALCOHOL AND DRUG TEST LAWS	2/14	3/04	CONCUR	3/07	VOTE: 9-1	3/11
SB0109	HOLDEN, RIC	GENERAL CLARIFICATION OF CORRECTIONS STATUTES	2/12	3/06	CONCUR AS AMENDED	3/08	VOTE: 9-1	3/11
SB0222	GLASER, BILL	REVISE DANGEROUS DRUG AND DUI LAWS	2/14	3/04	CONCUR	3/07	VOTE: 7-3	3/11
SB0256	HARGROVE, DON	CREATE OFFENSE OF ASSAULT UPON PEACE OFFICER OR JUDICIAL OFFICER	2/13	3/05	CONCUR AS AMENDED	3/08	VOTE: 10-0	3/11
SB0303	WILSON, WILLIAM	ALLOW JUDGE TO REQUIRE CERTAIN OFFENDERS TO HAVE IGNITION INTERLOCK DEVICE	3/03	3/06	CONCUR	3/07	VOTE: 10-0	3/11

Sandoz BILL NO. 256INTRODUCED BY *Hargrove*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; PROVIDING PENALTIES FOR ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; REMOVING ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER FROM THE OFFENSE OF FELONY ASSAULT; AMENDING SECTION 45-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. **Assault on peace officer or judicial officer.** (1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes:

(a) bodily injury to a peace officer or judicial officer;

(b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of a weapon;

(c) bodily injury to a peace officer or judicial officer with a weapon; or

(d) serious bodily injury to a peace officer or judicial officer.

(2) (a) A person convicted of assault on a peace officer or judicial officer under subsection (1)(a), (1)(b), or (1)(c) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 40 years, or both.

(3) As used in this section, the following definitions apply:

(a) "Judicial officer" has the meaning provided in 1-1-202 and includes the workers' compensation judge, water court judges, and judges pro tempore.

(b) "Peace officer" has the meaning provided in 45-2-101 and includes a person, sworn or unsworn, who is responsible for the care or custody of a prisoner.

(4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not

1 included as offenses of assault on a peace officer or judicial officer.

2
3 **Section 2.** Section 45-5-202, MCA, is amended to read:

4 **"45-5-202. (Temporary) Aggravated assault -- felony assault.** (1) A person commits the offense
5 of aggravated assault if ~~he~~ the person purposely or knowingly causes serious bodily injury to another.

6 (2) A person commits the offense of felony assault if ~~he~~ the person purposely or knowingly causes:

7 (a) bodily injury to another with a weapon; or

8 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

9 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
10 ~~prisoner.~~

11 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
12 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
13 in 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison for a term not
14 to exceed 10 years or be fined not more than \$50,000, or both.

15 **45-5-202. (Effective July 1, 1997) Aggravated assault -- felony assault.** (1) A person commits the
16 offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another.

17 (2) A person commits the offense of felony assault if the person purposely or knowingly causes:

18 (a) bodily injury to another with a weapon; or

19 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

20 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
21 ~~prisoner.~~

22 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
23 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
24 in 46-18-219 and 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison
25 for a term not to exceed 10 years or be fined not more than \$50,000, or both."

26
27 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
28 integral part of Title 45, chapter 5, part 2, and the provisions of Title 45, chapter 5, part 2, apply to
29 [section 1].

1 **NEW SECTION.** Section 4. Applicability. [This act] applies to offenses committed on or after [the
2 effective date of this act].

3
4 **NEW SECTION.** Section 5. Effective date. [This act] is effective on passage and approval.

5 -END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON CORRECTIONS

Call to Order: By CHAIRMAN BERGSAGEL, on March 5, 1997, at 7:02 p.m., in Room 325.

ROLL CALL

Members Present:

Rep. Ernest Bergsagel, Chairman (R)
Rep. William T. "Red" Menahan, Vice Chairman (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Delwyn Gage (R)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Daniel W. McGee (R)
Rep. Diana E. Wyatt (D)

Members Excused:

Rep. Gary Feland (R)
Rep. Matt McCann (D)
Sen. Charles "Chuck" Swysgood (R)
Rep. Steve Vick (R)

Members Absent: None

Staff Present:

Susan Fox, Legislative Services Division
Mike Wingard, Legislative Audit Division
Meg Angell, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 592 (3/03/97)
SB 37 (3/03/97)
SB 256 (3/03/97)
Executive Action: None

HEARING ON HB 592

Opening Statement by Sponsor: REP. BILLIE KRENZLER, HD 17

{Tape: 1; Side: A; Approx. Time Count: .7; Comments: Rep.
Krenzler introduced the bill and recommended the bill be tabled.}

Proponents' Testimony:

CANDACE TORGERSON, Rimrock Foundation

{Tape: 1; Side: A; Approx. Time Count: 2.5; Comments: Ms.
Torgerson testified as a proponent of the bill but concurred with
the recommendation it be tabled at this time.}

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 29.1.}

Close by Sponsor: SEN. LYNCH

{Tape: 1; Side: a; Approx. Time Count: 35.9.}

HEARING ON SB 256

Opening Statement by Sponsor: SEN. DON HARGROVE, SD 16 EXHIBIT 2

{Tape: 1; Side: a; Approx. Time Count: 37.7; Comments: Sen. Hargrove introduced the bill and provided one proposed amendment, Exhibit 2.}

Proponents' Testimony:

LOIS ADAMS, Legal Counsel, Department of Corrections

{Tape: 1; Side: A; Approx. Time Count: 41.6; Comments: Ms. Adams indicated the proposed amendment would need more work as it affects other statutes.}

MARTY LAMBERT, Gallatin County Attorney

{Tape: 1; Side: B; Approx. Time Count: 0.0.}

JOHN CONNOR, Montana Department of Justice

{Tape: 1; Side: B; Approx. Time Count: 6.9.}

JIM SMITH, Montana Sheriff's and Peace Officer's Association

{Tape: 1; Side: B; Approx. Time Count: 10.1.}

PAT CHENOVICK, Montana Supreme Court

{Tape: 1; Side: B; Approx. Time Count: 11.9.}

Opponents' Testimony: None

{Tape: 1; Side: B; Approx. Time Count: 14.2.}

Informational Testimony: None

{Tape: 1; Side: B; Approx. Time Count: 14.4.}

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 14.5.}

Close by Sponsor: SEN. HARGROVE

{Tape: 1; Side: b; Approx. Time Count: 20.1.}

DEPARTMENT OF CORRECTIONS EXHIBIT 2

DATE 3/5/97
SB 256



MARC RACICOT, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX: (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

AMENDMENT TO SB256

PROPOSED BY THE DEPARTMENT OF CORRECTIONS

1. Page 1, line 29

Strike: "prisoner"

Insert: "adult or juvenile offender"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON CORRECTIONS

Call to Order: By CHAIRMAN BERGSAGEL, on March 8, 1997, at 10:20 a.m., in Room 325.

ROLL CALL

Members Present:

Rep. Ernest Bergsagel, Chairman (R)
Rep. William T. "Red" Menahan, Vice Chairman (D)
Sen. B.F. "Chris" Christiaens (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Daniel W. McGee (R)
Rep. Steve Vick (R)
Rep. Diana E. Wyatt (D)

Members Excused: Rep. Gary Feland (R)
Sen. Delwyn Gage (R)
Sen. Charles "Chuck" Swysgood (R)

Members Absent: None

Staff Present: Susan Fox, Legislative Services Division
Mike Wingard, Legislative Audit Division
Skip Culver, Legislative Fiscal Division
Meg Angell, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 102; HB 125; HB 272; HB
279; HB 313; SB 109; SB 99; SB
256; SB 37; SB 2; SB 6; HB
544; HB 405.

EXECUTIVE ACTION

EXHIBIT 1

HB 102

MOTION: REP. McCANN MOVED HB 102 DO PASS.
{Tape: 1; Side: A; Approx. Time Count: 1.9.}

DISCUSSION

MOTION/VOTE: REP. JOHNSON MOVED COORDINATING AMENDMENT WITH SB 2 AS EXPLAINED BY SUSAN FOX. Motion carried 9-0.
{Tape: 2; Side: B; Approx. Time Count: 13.4.}

NOTE: AT THIS POINT IN THE MEETING NOISE FROM THE ROTUNDA BECAME AN ISSUE AND THE COMMITTEE MOVED TO ROOM 317.
{Tape: 2; Side: B; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO STATE YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.
{Tape: 2; Side: B; Approx. Time Count: 21.3.}

MOTION/VOTE: REP. JOHNSON MOVED LANGUAGE CHANGE FOR CONSISTENCY RELATIVE TO DELINQUENT YOUTH/YOUTH IN NEED OF SUPERVISION, AND FOR PINE HILLS YOUTH CORRECTIONAL FACILITY. Motion carried 9-0.
{Tape: 2; Side: B; Approx. Time Count: 25.6.}

DISCUSSION OF FISCAL NOTE FOR SB 109.

VOTE: (SB 109 be concurred in as amended). Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.
{Tape: 2; Side: B; Approx. Time Count: 27.1.}

SB 99

MOTION/VOTE: REP. VICK MOVED TO REMOVE SB 99 FROM THE TABLE. Motion carried 9-0.
{Tape: 2; Side: B; Approx. Time Count: 29.8.}

MOTION: REP. KASTEN MOVED SB 99 BE CONCURRED IN AS AMENDED.
{Tape: 2; Side: B; Approx. Time Count: 29.9.}

DISCUSSION

VOTE: Motion carried 9-1 with REP. WYATT voting no and SEN. SWYSGOOD voting yes by proxy.
{Tape: 2; Side: B; Approx. Time Count: 43.1.}

FURTHER DISCUSSION OF SB 99

{Tape: 2; Side: B; Approx. Time Count: 43.7; Comments: Discussion continued on Tape 3, Side A.}.

MOTION/VOTE: REP JOHNSON MOVED BILL BE DESIGNATED OTO. Motion carried 6-3 with REP. McGEE, REP. VICK and SEN. CHRISTIAENS voting no.
{Tape: 3; Side: A; Approx. Time Count: 1.2.}

SB 256

EXHIBIT 6

MOTION: REP. MENAHAN MOVED SB 256 BE CONCURRED IN.
{Tape: 3; Side: A; Approx. Time Count: 2.2.}

MOTION: REP. WYATT MOVED AMENDMENTS
{Tape: 3; Side: A; Approx. Time Count: 2.3.}

DISCUSSION

VOTE: Motion passed 9-0.

{Tape: 3; Side: A; Approx. Time Count: 4.7.}

MOTION/VOTE: REP. VICK MOVED SB 256 BE CONCURRED IN AS AMENDED.

Motion passed 10-0 with SEN. SWYSGOOD voting yes by proxy.

{Tape: 3; Side: A; Approx. Time Count: 7.1.}

TEMPORARY ADJOURNMENT AT 1:50 p.m. to allow Juvenile Justice Subcommittee to meet at 2:00 p.m.

RECONVENE: 4:20 p.m.

SB 37

EXHIBIT 7

MOTION: REP. McGEE MOVED SB 37 BE CONCURRED IN.

{Tape: 4; Side: A; Approx. Time Count: 1.4.}

SUBSTITUTE MOTION: REP. KASTEN MOVED SB 37 BE NOT CONCURRED IN .

{Tape: 4; Side: A; Approx. Time Count: 3.5.}

DISCUSSION

VOTE: Motion carried 7-2 with REP. McGEE voting no and REP. VICK voting no by proxy.

{Tape: 4; Side: A; Approx. Time Count: 8.4.}

MOTION/VOTE: REP. KASTEN MOVED SB 37 BE TABLED. Motion carried 10-0 with REP. VICK and SEN. SWYSGOOD voting yes by proxy.

{Tape: 4; Side: A; Approx. Time Count: 8.9.}

SB 2

EXHIBIT 8

MOTION: REP. KASTEN MOVED SB 2 BE CONCURRED IN

{Tape: 4; Side: A; Approx. Time Count: 9.9.}

MOTION: REP. KASTEN MOVED AMENDMENTS 000201.AGP FOR DISCUSSION

{Tape: 4; Side: A; Approx. Time Count: 15.2.}

MOTION/VOTE: REP. KASTEN MOVED AMENDMENTS 00201.AGP. Motion carried 8-1 with REP WYATT voting no.

{Tape: 4; Side: A; Approx. Time Count: 29.4.}

MOTION: REP. McGEE MOVED SB 2 BE CONCURRED IN AS AMENDED.

Motion carried 7-3 with REP. WYATT and SEN. CHRISTIAENS voting no and SEN. SWYSGOOD voting no by proxy. REP. VICK voted yes by proxy.

{Tape: 4; Side: A; Approx. Time Count: 30.7.}

SB 6

MOTION: SEN. CHRISTIAENS MOVED SB 6 BE CONCURRED IN

{Tape: 4; Side: A; Approx. Time Count: 31.7.}

DISCUSSION

HOUSE OF REPRESENTATIVES

House Select COMMITTEE ON CORRECTIONS

ROLL CALL

DATE 3/8/99

[illegible]

EXHIBIT 6
DATE 3/8/97
SB 256

Amendments to Senate Bill No. 256
Third Reading Copy

Requested by Rep. Bergsagel
For the Committee on Corrections

Prepared by Susan B. Fox
March 8, 1997

1. Page 1, lines 19 and 20.

Strike: "(a)"

Following: "convicted of" on line 19

Insert: "aggravated"

Strike: "(1)(a), (1)(b), or (1)(c)"

Insert: "(1)"

2. Page 1, line 20.

Following: "be"

Insert: "imprisoned in the state prison for a term of not less
than 2 years or more than 20 years and may be"

Following: "\$50,000"

Strike: "or" on line 20 through "both" on line 21

Insert: ", except as provided in 46-18-222. A person convicted
of felony assault on a peace officer or judicial officer
shall be imprisoned in the state prison for a term not to
exceed 10 years or be fined not more than \$50,000, or both."

3. Page 2, lines 22 through 24.

Strike: subsection (b) in its entirety

4. Page 1, line 30 through page 2, line 1.

Strike: subsection (4) in its entirety



HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Page 1 of 1

Mr. Speaker: We, the committee on **Select Committee on Corrections** report that **Senate Bill 256** (third reading copy -- blue) be concurred in as amended.

Signed:

Ernest Bergsager, Chair

And, that such amendments read:

Carried by: Rep. Clark

1. Page 1, lines 19 and 20.

Strike: the first "(a)"

Following: "convicted of" on line 19

Insert: "aggravated"

Strike: "(1) (a), (1) (b), or (1) (c)"

Insert: "(1)"

2. Page 1, line 20.

Following: the first "be"

Insert: "imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be"

Following: "\$50,000"

Strike: "or" on line 20 through "both" on line 21

Insert: ", except as provided in 46-18-222. A person convicted of felony assault on a peace officer or judicial officer shall be imprisoned in the state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both."

3. Page 1, lines 22 through 24.

Strike: subsection (b) in its entirety

4. Page 1, line 29.

Strike: "a prisoner"

Insert: "an adult or youth offender"

5. Page 1, line 30 through page 2, line 1.

Strike: subsection (4) in its entirety

-END-

Committee Vote:

Yes 10, No 0.

521416SC.Hgd

SS.
3-10-97

SENATE BILL NO. 256

INTRODUCED BY HARGROVE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; PROVIDING PENALTIES FOR ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; REMOVING ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER FROM THE OFFENSE OF FELONY ASSAULT; AMENDING SECTION 45-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Assault on peace officer or judicial officer. (1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes:

(a) bodily injury to a peace officer or judicial officer;

(b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of a weapon;

(c) bodily injury to a peace officer or judicial officer with a weapon; or

(d) serious bodily injury to a peace officer or judicial officer.

(2) ~~(a)~~ A person convicted of AGGRAVATED assault on a peace officer or judicial officer under subsection ~~(1)(a), (1)(b), or (1)(c)~~ (1) shall be IMPRISONED IN THE STATE PRISON FOR A TERM OF NOT LESS THAN 2 YEARS OR MORE THAN 20 YEARS AND MAY BE fined an amount not to exceed \$50,000 ~~or be imprisoned in the state prison for a term not to exceed 10 years, or both,~~ EXCEPT AS PROVIDED IN 46-18-222. A PERSON CONVICTED OF FELONY ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER SHALL BE IMPRISONED IN THE STATE PRISON FOR A TERM NOT TO EXCEED 10 YEARS OR BE FINED NOT MORE THAN \$50,000, OR BOTH.

~~(b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 40 years, or both.~~

(3) As used in this section, the following definitions apply:

(a) "Judicial officer" has the meaning provided in 1-1-202 and includes the workers' compensation

1 judge, water court judges, and judges pro tempore.

2 (b) "Peace officer" has the meaning provided in 45-2-101 and includes a person, sworn or
3 unsworn, who is responsible for the care or custody of ~~a prisoner~~ AN ADULT OR YOUTH OFFENDER.

4 ~~(4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not~~
5 ~~included as offenses of assault on a peace officer or judicial officer.~~

6
7 **Section 2.** Section 45-5-202, MCA, is amended to read:

8 **"45-5-202. (Temporary) Aggravated assault -- felony assault.** (1) A person commits the offense
9 of aggravated assault if ~~he~~ the person purposely or knowingly causes serious bodily injury to another.

10 (2) A person commits the offense of felony assault if ~~he~~ the person purposely or knowingly causes

11 (a) bodily injury to another with a weapon; or

12 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or~~

13 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of~~
14 ~~prisoner.~~

15 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
16 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
17 in 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison for a term not
18 to exceed 10 years or be fined not more than \$50,000, or both.

19 **45-5-202. (Effective July 1, 1997) Aggravated assault -- felony assault.** (1) A person commits the
20 offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another

21 (2) A person commits the offense of felony assault if the person purposely or knowingly causes

22 (a) bodily injury to another with a weapon; or

23 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or~~

24 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of~~
25 ~~prisoner.~~

26 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
27 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
28 in 46-18-219 and 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison
29 for a term not to exceed 10 years or be fined not more than \$50,000, or both."

1 **NEW SECTION.** **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
2 integral part of Title 45, chapter 5, part 2, and the provisions of Title 45, chapter 5, part 2, apply to
3 [section 1].

4
5 **NEW SECTION.** **Section 4. Applicability.** [This act] applies to offenses committed on or after [the
6 effective date of this act].

7
8 **NEW SECTION.** **Section 5. Effective date.** [This act] is effective on passage and approval.

9 -END-

LEGISLATIVE TAPE LOG

COMMITTEE

Conference Committee on
SB 256 - 4/2/97

MINUTES

CONTENT NOTES

4:35

Ch. Don Hargrove - Bill designed to
recognize hazards of law enforce-
ment duties.

Ex #1

4:40

Ch. Hargrove. Reiterate at least
part of material deleted by
House amendments.

Sen. Delaney - What does House want?
Both Baker Dept Justice - amendments
from House about Com. on Corrections.

4:45

Motion: Sen Estrada - remove House
amendments
Susan Fort, Leg. Services - retain #4

Both Baker. House put in existing
penalties for aggravated assault.

4:50

Sen. Delaney - good to increase penalties
Ch. Hargrove - make specific
suggestions

Both Baker suggested Ex #2
amendments - leave #4 from House.

Sen Estrada - moved to adjust
her motion to conform to Ex #2.

4:55

Motion carried unanimously.
Adj.



Rejected by Senate
SENATE FISH AND GAME
EXHIBIT NO. 1

DATE 4/2/97

BILL NO. Cal. Comm. on
SB 256

HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Page 1 of 1

Mr. Speaker: We, the committee on **Select Committee on Corrections** report that **Senate Bill 256** (third reading copy -- blue) be concurred in as amended.

Signed: _____

Ernest Bergsagel, Chair

And, that such amendments read:

Carried by: Rep. Clark

1. Page 1, lines 19 and 20.

Strike: the first "(a)"

Following: "convicted of" on line 19

Insert: "aggravated"

Strike: "(1)(a), (1)(b), or (1)(c)"

Insert: "(1)"

2. Page 1, line 20.

Following: the first "be"

Insert: "imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be"

Following: "\$50,000"

Strike: "or" on line 20 through "both" on line 21

Insert: ", except as provided in 46-18-222. A person convicted of felony assault on a peace officer or judicial officer shall be imprisoned in the state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both."

3. Page 1, lines 22 through 24.

Strike: subsection (b) in its entirety

4. Page 1, line 29.

Strike: "a prisoner"

Insert: "an adult or youth offender"

5. Page 1, line 30 through page 2, line 1.

Strike: subsection (4) in its entirety

-END-

Committee Vote:

Yes 10, No 0.

SB 256

HOUSE

3-10-97

For the Conference Committee on SB 256

Prepared by Susan Byorth Fox
April 2, 1997

1. Page 1, line 19.

Following: "~~(a)~~"

Insert: "(a)"

Strike: "AGGRAVATED"

2. Page 1, line 20.

Strike: "(1)"

Insert: "(1)(a), (1)(b), or (1)(c)"

3. Page 1, line 21.

Strike: "20"

Insert: "10"

Following: "\$50,000"

Insert: "."

4. Page 1, lines 22 through 25.

Following: "~~both~~"

Strike: the remainder of line 22 through line 25

5. Page 1.

Following: line 28

Insert: " (b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 20 years, or both."

6. Page 2.

Following: line 5

Insert: " (4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not included as offenses of assault on a peace officer or judicial officer."

ROLL CALL ~~VOTE~~

~~FREE CONFERENCE~~ or CONFERENCE COMMITTEE

ON BILL NO. SB 256

DATE 4/02/97 TIME 4:35 ~~A.M.~~ P.M.

Here

NAME	YES	NO
<i>Sen Don Hargrove, Ch.</i>	<i>X</i>	
<i>" Steve Doherty</i>	<i>X</i>	
<i>" Sharon Estrada</i>	<i>X</i>	
<i>Rep. Robert Cech</i>		<i>absent</i>
<i>" Ellen Bergman</i>	<i>X</i>	
<i>" Gerald Pease</i>	<i>X</i>	

Suzanne Anderson

SECRETARY

CHAIR

MOTION: _____

DATE 4/2/97

SENATE COMMITTEE ON Conf. Com. SB 256

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Deis Adams	Dpt of CORRECTIONS	256	X	
PATRICK CHENOVICK	MT SUPREME CT	256	X	
Kathy McGowan	mt sher. & Peace of	256		
Beth Baker	Dept of Justice	256		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



CONFERENCE COMMITTEE

on Senate Bill 256

Report No. 1, April 7, 1997

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill 256, met and considered the amendments on the Select Committee on Corrections report dated March 10, 1997.

We recommend that Senate Bill 256 (reference copy - salmon) be amended as follows:

1. Page 1, line 19.

Following: "~~(a)~~"

Insert: "(a)"

Strike: "AGGRAVATED"

2. Page 1, line 20.

Strike: "(1)"

Insert: "(1)(a), (1)(b), or (1)(c)"

3. Page 1, line 21.

Strike: "20"

Insert: "10"

Following: "\$50,000"

Insert: "."

4. Page 1, lines 22 through 25.

Following: "~~both~~"

Strike: the remainder of line 22 through line 25

5. Page 1.

Following: line 28

Insert: "(b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 20 years, or both."

ADOPT

REJECT

CCR #1
SB 256

731045CC.STS

6. Page 2.

Following: line 5

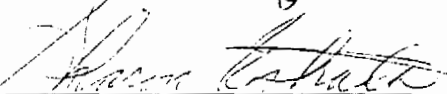
Insert: " (4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not included as offenses of assault on a peace officer or judicial officer."

And that this Conference Committee report be adopted.

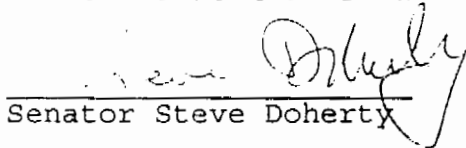
For the Senate:



Senator Don Hargrove, Chair



Senator Sharon Estrada



Senator Steve Doherty

For the House:



Rep. Gerald Pease, Chair



Rep. Ellen Bergman



Amd. Coord.



Sec. of Senate



CONFERENCE COMMITTEE

on Senate Bill 256
Report No. 1, April 7, 1997

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill 256, met and considered the amendments on the Select Committee on Corrections report dated March 10, 1997.

We recommend that Senate Bill 256 (reference copy - salmon) be amended as follows:

1. Page 1, line 19.

Following: "~~(a)~~"

Insert: "(a)"

Strike: "AGGRAVATED"

2. Page 1, line 20.

Strike: "(1)"

Insert: "(1)(a), (1)(b), or (1)(c)"

3. Page 1, line 21.

Strike: "20"

Insert: "10"

Following: "\$50,000"

Insert: "."

4. Page 1, lines 22 through 25.

Following: "~~both~~"

Strike: the remainder of line 22 through line 25

5. Page 1.

Following: line 28

Insert: " (b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 20 years, or both."

CORRECTED

ADOPT

REJECT

CCR #1
SB 256

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6. Page 2.

Following: line 5

Insert: " (4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not included as offenses of assault on a peace officer or judicial officer."

And that this Conference Committee report be adopted.

For the Senate:

Don Hargrove
Senator Don Hargrove, Chair

Sharon Estrada
Senator Sharon Estrada

Steve Doherty
Senator Steve Doherty

For the House:

Bob Clark
Rep. Robert Clark, Chair

Gerald Pease
Rep. Gerald Pease

Ellen Bergman
Rep. Ellen Bergman

TS
Amd. Coord.

SPA
Sec. of Senate

SENATE BILL NO. 256

INTRODUCED BY HARGROVE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; PROVIDING PENALTIES FOR ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER; REMOVING ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER FROM THE OFFENSE OF FELONY ASSAULT; AMENDING SECTION 45-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Assault on peace officer or judicial officer. (1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes:

- (a) bodily injury to a peace officer or judicial officer;
- (b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of a weapon;
- (c) bodily injury to a peace officer or judicial officer with a weapon; or
- (d) serious bodily injury to a peace officer or judicial officer.

(2) ~~(a)(A)~~ A person convicted of AGGRAVATED assault on a peace officer or judicial officer under subsection ~~(1)(a), (1)(b), or (1)(c)~~ (1)(A), (1)(B), OR (1)(C) shall be IMPRISONED IN THE STATE PRISON FOR A TERM OF NOT LESS THAN 2 YEARS OR MORE THAN 20 10 YEARS AND MAY BE fined an amount not to exceed \$50,000, ~~or be imprisoned in the state prison for a term not to exceed 10 years, or both,~~ EXCEPT AS PROVIDED IN 46-18-222. A PERSON CONVICTED OF FELONY ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER SHALL BE IMPRISONED IN THE STATE PRISON FOR A TERM NOT TO EXCEED 10 YEARS OR BE FINED NOT MORE THAN \$50,000, OR BOTH.

~~(b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 40 years, or both.~~

(B) EXCEPT AS PROVIDED IN 46-18-222, A PERSON CONVICTED OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER UNDER SUBSECTION (1)(D) SHALL BE FINED AN AMOUNT NOT TO

1 EXCEED \$50,000 OR BE IMPRISONED IN THE STATE PRISON FOR A TERM OF NOT LESS THAN 5 YEARS
2 OR MORE THAN 20 YEARS, OR BOTH.

3 (3) As used in this section, the following definitions apply:

4 (a) "Judicial officer" has the meaning provided in 1-1-202 and includes the workers' compensation
5 judge, water court judges, and judges pro tempore.

6 (b) "Peace officer" has the meaning provided in 45-2-101 and includes a person, sworn or
7 unsworn, who is responsible for the care or custody of ~~a prisoner~~ AN ADULT OR YOUTH OFFENDER.

8 ~~(4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not~~
9 ~~included as offenses of assault on a peace officer or judicial officer.~~

10 (4) CRIMINAL ENDANGERMENT, NEGLIGENT ENDANGERMENT, AND ASSAULT, AS DEFINED IN
11 45-5-201, ARE NOT INCLUDED AS OFFENSES OF ASSAULT ON A PEACE OFFICER OR JUDICIAL
12 OFFICER.

13
14 **Section 2.** Section 45-5-202, MCA, is amended to read:

15 **"45-5-202. (Temporary) Aggravated assault -- felony assault.** (1) A person commits the offense
16 of aggravated assault if ~~he~~ the person purposely or knowingly causes serious bodily injury to another.

17 (2) A person commits the offense of felony assault if ~~he~~ the person purposely or knowingly causes:

18 (a) bodily injury to another with a weapon; or

19 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

20 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
21 ~~prisoner.~~

22 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
23 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
24 in 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison for a term not
25 to exceed 10 years or be fined not more than \$50,000, or both.

26 **45-5-202. (Effective July 1, 1997) Aggravated assault -- felony assault.** (1) A person commits the
27 offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another.

28 (2) A person commits the offense of felony assault if the person purposely or knowingly causes:

29 (a) bodily injury to another with a weapon; or

30 (b) reasonable apprehension of serious bodily injury in another by use of a weapon; ~~or,~~

1 ~~(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a~~
2 ~~prisoner.~~

3 (3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of
4 not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided
5 in 46-18-219 and 46-18-222. A person convicted of felony assault shall be imprisoned in the state prison
6 for a term not to exceed 10 years or be fined not more than \$50,000, or both."

7
8 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 45, chapter 5, part 2, and the provisions of Title 45, chapter 5, part 2, apply to
10 [section 1].

11
12 **NEW SECTION. Section 4. Applicability.** [This act] applies to offenses committed on or after [the
13 effective date of this act].

14
15 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

16 -END-